

1 that means Board of Education President -- to ask our  
2 representatives to talk to the FCC. We first need to  
3 coordinate internally before we make major action.

4 Ernie was urging us to -- to send out  
5 lobbyists or to get Congress people -- he was urging  
6 us to make a big push on the FCC. Ernie had said to  
7 me, "Nicole, I have heard back from Roy Stewart.  
8 You'll recall" -- he goes on and on.

9 Q This e-mail from Ms. Wright, who was your  
10 supervisor at the district, that was sent by high  
11 importance, is that correct?

12 A Exactly. That's what it says, yes. And  
13 actually, if you look at the very end of this, you  
14 will see that there is an e-mail that Ernie attached  
15 from a Mr. Roy Stewart at FCC.gov, which was  
16 Wednesday, the 28th, May '03. And it says, "The  
17 renewal for Station KALW(FM) is under active  
18 consideration by the Commission. I expect Commission  
19 action in the near future."

20 Q Okay.

21 A And then, we go to SFUSD Exhibit 28,  
22 undated, from me to Ernie, cc to Bill Helgeson and

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1 Jackie Wright, re KALW pending renewal. "Ernie, thank  
2 you so much for your gracious offer. We'll take you  
3 up on it. Definitely helps with the old bottom line.  
4 Please pursue Commission Adelstein. He has a mug and  
5 a totebag from KALW, so hopefully he'll remember.  
6 Let's hope for a quick resolution."

7 As you can see, I had -- Mr. Sanchez had  
8 decided not to charge us.

9 Q Now, was it your practice to copy Ms.  
10 Wright on your correspondence with Mr. Sanchez?

11 A As far as I can remember, yes, absolutely.

12 Q And why is that?

13 A She was engaged in this as well. She had  
14 concerns about it.

15 Q Okay.

16 A And then, we go to SFUSD Exhibit 29, and  
17 that is dated July 23, 2002, and that's from Jackie to  
18 me. I'm writing to her. I don't capitalize  
19 everything, so that probably is shorthand for --  
20 that's more of a casual, just interpersonal e-mail  
21 between me and Jackie from Ernie.

22 "After I placed a call last week, just

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1        what we need -- a fine. Oh, well. Knew it was  
2        coming. Perhaps Golden Gate Public Radio can pay for  
3        it." I understand I was being sarcastic. "Yeah,  
4        right." You can see I was being very sarcastic, and  
5        that's in regard to something I had received from  
6        Ernie.

7                        "Here is the latest on the KALW renewal  
8        saga," and he describes a Michael Wagner, Peter Doyle,  
9        a Jerome Robinson, back to Peter Doyle. "While the  
10       movement was slow, it does seem the wheels are  
11       turning. Please let me know your thinking."

12                      Q        Okay.

13                      A        We go to SFUSD Exhibit 30, and that's from  
14       me to Ernie Sanchez. I cc Bill. There's no date.  
15       "Hi, Ernie."

16                      JUDGE SIPPEL: I'm sorry. This is what,  
17       30?

18                      THE WITNESS: Yes. This is --

19                      JUDGE SIPPEL: All right. Go ahead.

20                      THE WITNESS: "Hi, Ernie. Wondering if  
21       you got my response to your last e-mail to me. You  
22       mentioned the FCC was stumped about the EEO

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1       allegations, yet you distinctly told me that they were  
2       thrown out as unsubstantiated, or some such legalese,  
3       a while ago by the FCC. Also, that's what was in your  
4       confidential report to Superintendent Ackerman, so why  
5       were they -- so were they thrown out? He seemed to be  
6       waffling on that?"

7               This is one of the conferences where I was  
8       probably going to run into him, but I decided not to  
9       go because I'm always busy. We don't have a huge  
10      budget. And I advised him to please push before the  
11      holiday break. Having been a Washingtonian for two  
12      years, I do know that things shut down pretty well  
13      around the holidays.

14             JUDGE SIPPEL: What date is this memo?

15             THE WITNESS: Unfortunately, there is no  
16      date.

17             JUDGE SIPPEL: Do you have a best estimate  
18      on it, in light of the fact that it's close to holiday  
19      time?

20             THE WITNESS: Well, maybe December, or  
21      maybe even prior to Thanksgiving.

22             JUDGE SIPPEL: Late in the year,

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1 November/December?

2 THE WITNESS: Exactly.

3 BY MR. PRICE:

4 Q Now, in the interest of time, Ms. Sawaya,  
5 there's a number of --

6 A There's a number of them.

7 Q -- there's a long series of additional  
8 e-mails between --

9 JUDGE SIPPEL: Wait just a second. What  
10 year? November/December of what year?

11 THE WITNESS: I'm not really sure. I  
12 would imagine, Your Honor, that since I didn't cc  
13 Jackie Wright that maybe it was '03 or maybe -- or  
14 maybe '04. I'm not quite sure.

15 JUDGE SIPPEL: Sorry. I didn't mean to  
16 interrupt you.

17 THE WITNESS: That's okay.

18 BY MR. PRICE:

19 Q Are these e-mails representative of the  
20 types of correspondence you would have with Mr.  
21 Sanchez following the May 24, 2001, report that the  
22 Sanchez law firm prepared?

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1           A       They built up over time. Yes. They're  
2 very representative of my growing frustration.

3           Q       And did Ernie -- I'm sorry -- Mr. Sanchez  
4 or Ms. Jenkins ever advise you of potential courses of  
5 action you could take to speed this process along, or  
6 that they could take?

7           A       They did.

8           Q       And what were those? What do you recall  
9 their advice being?

10          A       Well, there were two sets of advice. One  
11 was that we get our Congress people to speak with the  
12 Commissioners of the FCC. And the other set of  
13 advice, when I was really -- I was really towards the  
14 end of my -- I mean, I -- at that point I was really  
15 being sarcastic. "Any news," you know, kind of  
16 attitude.

17                   Mr. Sanchez suggested that we leapfrog  
18 over the FCC and take this to the U.S. Court of  
19 Appeals.

20          Q       And did you understand that that would be  
21 a course of action likely to succeed?

22          A       I was not confident.

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1           Q     Did you understand that that course of  
2     action taken by the Sanchez law firm would be for  
3     free.

4           A     Absolutely not.

5           Q     And what did you advise Mr. Sanchez in  
6     response to the suggestion that one course of action  
7     might be to file an appeal with the Court of Appeals?

8           A     I was very vehement in my disagreement  
9     with that. I felt that we should be able to -- while  
10    this matter was of utmost urgency, that surely we  
11    should be able to work this out through the regular  
12    channels of the FCC. It was really over the top, and  
13    in some ways I gave an over-the-top response back to  
14    him.

15          Q     Ultimately, the Sanchez law firm was fired  
16    by the district, is that correct?

17          A     That is correct.

18          Q     Do you know when this was?

19          A     That was before my deposition was taken.

20                JUDGE SIPPEL: Timeframe. Well, now, your  
21    deposition was in September of 2004.

22                THE WITNESS: I believe it was July or

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1 August, yes.

2 JUDGE SIPPEL: Do I have that right?

3 MR. PRICE: Yes.

4 MR. SHOOK: Right. And there is in the  
5 record -- I can't say it's in the record at this  
6 point. It's part of the pleadings of this proceeding  
7 in terms of withdrawal of appearance notice filed by  
8 the Sanchez law firm.

9 MS. LEAVITT: In fact, we have --

10 JUDGE SIPPEL: Well, that's all right. I  
11 don't want to make -- but it's sometime in or around  
12 that timeframe, that that's how you referred to it.

13 THE WITNESS: Yes.

14 JUDGE SIPPEL: The Sanchez law firm was  
15 let go shortly before you were deposed.

16 THE WITNESS: Well, leading up to the  
17 deposition, because there was a lot of work that we  
18 were doing leading up to the deposition.

19 JUDGE SIPPEL: Right, right, right. And  
20 you said here that -- in Number 31, you say that  
21 Jackie Wright's position was eliminated due to  
22 budgets. And, again, there's no date on that memo.

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1 But can you clue in an on or about date for that, do  
2 you think, or at least a month and a year?

3 THE WITNESS: 2003.

4 JUDGE SIPPEL: Well, when did she --

5 THE WITNESS: I'm not sure.

6 JUDGE SIPPEL: -- go? When was her job  
7 eliminated?

8 THE WITNESS: I'm not exactly sure. I  
9 know that they -- they eliminated the job, but then  
10 they asked her to stay on a few more months. So I'm  
11 thinking in the fall of 2003.

12 JUDGE SIPPEL: All right.

13 MR. PRICE: I don't mean to cut you off,  
14 but --

15 JUDGE SIPPEL: No, that's okay.

16 MR. PRICE: -- the witness' recollection  
17 may be refreshed by referring to Enforcement Bureau  
18 Exhibit Number 40.

19 JUDGE SIPPEL: Thank you.

20 BY MR. PRICE:

21 Q Do you have Enforcement Bureau Exhibit  
22 Number 40 in front of you?

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1 A I do.

2 Q And if you -- that document, for the  
3 record, is SFUSD's objections and responses to  
4 Enforcement Bureau's interrogatories.

5 JUDGE SIPPEL: Right. I've got the  
6 document.

7 BY MR. PRICE:

8 Q And if you turn to page --

9 JUDGE SIPPEL: What date was that filed  
10 or --

11 MR. PRICE: I see a received date, but let  
12 me find the file date. The file date is September 17,  
13 2004.

14 BY MR. PRICE:

15 Q And if you turn to page 3 of that document  
16 -- I'm sorry, on page 4, question number 3, it asks,  
17 "Identify all persons who are or were employed in a  
18 paid position to manage the station during the period  
19 January 1, '91, to the present, and provide the title  
20 and a brief description of the duties of each person  
21 identified and state the duration of his or her  
22 employment."

1                   It then goes on -- the answer goes on,  
2                   "First, identify the general managers." But then, if  
3                   you turn the page to page 5 of the document you'll see  
4                   the SFUSD official responsible for aspects of the  
5                   management of the station." Do you see that?

6                   A           I do.

7                   Q           Does that refresh your recollection as to  
8                   the timeline of when Ms. Wright was at the district?

9                   A           It does. I got the year right, but I  
10                  wasn't on point with the month.

11                  Q           Now, focusing on this answer, it appears  
12                  as though when Ms. Wright's position was eliminated,  
13                  or when Ms. Wright left in May of 2003, she was  
14                  immediately followed by Ms. Ho, is that correct?

15                  A           That's correct.

16                  Q           And then, at a certain point in September  
17                  -- a certain point, September of 2004, it looks like  
18                  Myong Lei also became a direct contact for you with  
19                  the district, is that correct?

20                  A           Yes, that's correct.

21                  Q           Do you know any of these individuals  
22                  identified in the period preceding January of 2001 --

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1 Mr. Arkur Varadajaran? I'm probably not doing a good  
2 job pronouncing his name. Glenston Thompson, Bob  
3 Harrington, Ruben Boucher, Enrique Palacios, or Linda  
4 Davis?

5 A I met with Glenston Thompson. He was the  
6 official that I had my first interview with after I  
7 had applied for the job.

8 Q Do you have an understanding as to what  
9 role these individuals -- and by "these individuals"  
10 I'm referring to those that begin with Mr. Varadajaran  
11 -- do you have any -- do you have an understanding as  
12 to what role they played with respect to the station  
13 and the district?

14 A Not really, no.

15 Q Can you determine from their titles or --  
16 what role they may have played between the station and  
17 the district?

18 A Well, you see a couple of special  
19 assistants to the superintendent, which was, for  
20 example, Enrique Palacios. And I would imagine he was  
21 a direct conduit from the station to the then  
22 Superintendent.

1 I see Linda Davis. She is Deputy  
2 Superintendent, so she was obviously a direct conduit.  
3 A Mr. Harrington -- he was an Assistant  
4 Superintendent, so likewise he must have been very  
5 close to the then -- that was not Dr. Ackerman at the  
6 time.

7 MR. SHOOK: Your Honor, is there any point  
8 to this in terms of --

9 JUDGE SIPPEL: I'm not sure.

10 MR. SHOOK: Ms. Sawaya wasn't even there.

11 MR. PRICE: I just wanted to see if --

12 MR. SHOOK: She doesn't know these people.

13 MR. PRICE: I just wanted to know if Ms.  
14 Sawaya had any understanding as to what role these  
15 folks played in serving as a conduit between the  
16 station and the district, and I think she has  
17 testified to the extent of her knowledge.

18 BY MR. PRICE:

19 Q Is that your testimony, you don't know?

20 JUDGE SIPPEL: I'm not so sure that it's  
21 been established that they were in fact a conduit,  
22 based on her testimony up until this time.

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1 THE WITNESS: I would assume that they  
2 were the touch point for the station to the district.

3 BY MR. PRICE:

4 Q Well, you weren't at the station at the  
5 time, correct?

6 A No, I was not. That is correct.

7 Q But Ms. Wright, and then Ms. Ho and Ms. --  
8 and Mr. Lei, they were your conduits, correct? Your  
9 contacts to the district, correct?

10 A That is correct.

11 Q All right. You've been at the station now  
12 a little bit over four years, is that correct?

13 A That's correct.

14 Q And since the initial flurry of activity  
15 with the LOI response in March, have there been any  
16 other significant legal activities at the station?

17 A None.

18 Q Has the station been subject to any other  
19 notices of violation, notices of apparent liability,  
20 or forfeiture orders for violation of FCC rules?

21 A None.

22 Q Have you instituted any programming

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1 changes since your tenure began at this station in  
2 March of 2001?

3 A Yes, I have.

4 Q Can you please briefly turn to SFUSD  
5 Exhibit 47, the full version of the document?

6 MR. SHOOK: Your Honor, before we go on  
7 with this line, it strikes me that we are going way  
8 beyond the cross examination that the Bureau  
9 conducted. And if somehow this is connected with that  
10 cross, I'd be perfectly happy to sit back and listen.

11 But if we're talking about something that  
12 is totally foreign to what the Bureau covered in  
13 cross, I don't see how we can cover this now.

14 JUDGE SIPPEL: Are you talking about 47?

15 MR. SHOOK: Yes, Your Honor.

16 JUDGE SIPPEL: Well, okay. So you've got  
17 -- yes. What does it relate to? I mean, how is it  
18 relevant to cross?

19 MR. PRICE: There were questions asked of  
20 Ms. Sawaya about programming at the station by Ms.  
21 Leavitt. If you'll recall, her first -- her first  
22 several lines of questioning related to Ms. Sawaya's

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1 knowledge about programming at the station.

2 JUDGE SIPPEL: Yes, that's true.

3 MR. PRICE: And so I want to ask her about  
4 some of the programming at the station and the changes  
5 she may have made.

6 JUDGE SIPPEL: There was that line of  
7 questioning in the beginning of cross.

8 MR. SHOOK: Right. As I understood that  
9 line of questioning, it was trying to determine what  
10 Ms. Sawaya knew about the station's programming before  
11 she arrived.

12 JUDGE SIPPEL: Well, I don't see where  
13 this does -- I don't see where this does any harm to  
14 the ball park. I'll permit a bit of this. I'll  
15 permit a bit of this. You've got a point, Mr. Shook.  
16 I'm not --

17 MR. PRICE: And recognizing that point,  
18 Your Honor, one of the things I would like to -- I  
19 want to focus on is the line of inquiry related to the  
20 relationship between the school district and the  
21 station and the programming and the work that's done  
22 at the station in conjunction with the district.

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1 That's part of the reason for bringing this up.

2 JUDGE SIPPEL: Well, let's see where it  
3 goes. I mean, the weight to be accorded it is -- is  
4 not too heavy in light of the fact of -- I mean, in  
5 light of the fact that this really was not covered on  
6 cross. On the other hand, I want a -- I want a full  
7 record here, so I'll let you proceed.

8 MR. PRICE: Thank you, Your Honor.

9 JUDGE SIPPEL: To a degree. So I'm  
10 overruling your objection, Mr. Shook.

11 BY MR. PRICE:

12 Q I'm going to hand you pages 97 through 120  
13 of SFUSD Exhibit Number 42. I believe in the binder  
14 that the Court has there's only an excerpt, which we  
15 produced in the interest of --

16 JUDGE SIPPEL: SFUSD 47?

17 MR. PRICE: I'm sorry. Did I say  
18 something else?

19 JUDGE SIPPEL: I thought you said 42.

20 MR. PRICE: Oh. On mine I read the 7 as  
21 a 2. You're right, Exhibit 47.

22 JUDGE SIPPEL: Oh, I see. I do have a

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1 copy of page 97, but then it jumps to 120.

2 MR. PRICE: I have it here.

3 JUDGE SIPPEL: While you're looking for  
4 that, can I -- oh, you've got it? I was going to ask  
5 anybody at counsel table on the SFUSD side, is there  
6 a way of -- is there a way of reconstructing dates for  
7 those undated series of e-mails that went back and  
8 forth?

9 MR. PRICE: In the direct testimony we  
10 tried, where there was an embedded date in the  
11 e-mails. The witness can probably better explain to  
12 you why some of these don't have a date on them.  
13 These were e-mails that were rescued or restored so to  
14 speak from her hard drive, which -- which became  
15 corrupted and died.

16 And what was saved typically didn't have  
17 the date line, but oftentimes there was a reply to an  
18 e-mail that did have an embedded date. And so we  
19 tried to recreate that as best we could in the direct  
20 testimony.

21 MR. SHOOK: Your Honor, I think the record  
22 will be clear enough.

1 JUDGE SIPPEL: All right.

2 MR. SHOOK: As Mr. Price said, there are  
3 embedded dates. Where there aren't dates at the top,  
4 you can generally make out when the e-mail or e-mail  
5 series was sent.

6 JUDGE SIPPEL: If you look hard enough,  
7 you can find it, huh?

8 MR. SHOOK: Yes.

9 MS. LEAVITT: But they're also -- just for  
10 the completeness, Your Honor, there are also some e-  
11 mails that don't have embedded dates in them. So it  
12 is -- you are correct that there are some undated  
13 e-mails.

14 JUDGE SIPPEL: Well, we reconstructed a  
15 bit by going into a discovery document in terms of  
16 when the -- when we figured the Sanchez one was, and  
17 we did some figuring around in terms of when Jackie  
18 Wright -- we kind of -- I mean, there aren't going to  
19 be too many documents like that, are there, that we  
20 have --

21 MR. PRICE: No. There's just that series  
22 of e-mails. And to the extent that some are lacking

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1 dates, I don't think that the date is as critical as  
2 the point that was trying to be expressed with the  
3 testimony, was that during this period of May 2001 to  
4 the time the Sanchez law firm was let go, there was a  
5 large number of correspondence from Ms. Sanchez and  
6 Ms. Wright to the Sanchez law firm saying --

7 THE WITNESS: Ms. Sawaya.

8 MR. PRICE: -- Ms. Sawaya saying, "What's  
9 going on?" trying to establish some followup with  
10 them. The significance was -- the probative value was  
11 the repeated contacts, not the exact dates that they  
12 were sent. And so to the extent we were able to get  
13 the exact date on a few, we did our best.

14 JUDGE SIPPEL: Okay. Well, maybe it's  
15 just a proclivity that I have to want to know times,  
16 dates, that kind of thing. If I need more at some  
17 point down the road, I'll ask for it.

18 Okay. I'm sorry. Go ahead.

19 BY MR. PRICE:

20 Q Ms. Sawaya, can you tell me what  
21 Exhibit 47 at page 97 through 120 is?

22 A That's a copy of our summer quarter

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1 program guide, and the program guide is sent to  
2 members of KALW and distributed throughout the city.

3 Q And did you prepare the manager's notes on  
4 page 3?

5 A I always do, yes.

6 Q What's the purpose of that?

7 A To inform our listeners about the  
8 programming changes or anything that's going on at the  
9 station.

10 MR. SHOOK: Before you go on, could you  
11 identify which year?

12 THE WITNESS: Oh, I'm sorry. This one is  
13 July/August/September 2004.

14 BY MR. PRICE:

15 Q And can you identify in this document this  
16 -- the programs of most significance to the local  
17 community, including the programs, if any, targeted  
18 specifically towards students, families of students?

19 A Well, those are two different things. The  
20 programs with regard to students are really more  
21 initiatives on how we can begin to engage the students  
22 of SFUSD with the radio station.

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1           So while we do air the school lunch menu  
2           in both Morning Edition and All Things Considered,  
3           there has been three or four initiatives that I've  
4           been able to create with regard to students at SFUSD.  
5           One was the live broadcast of the back-to-school  
6           rally.    The second one was called the Sanchez  
7           Elementary School Project, and that was -- ended up to  
8           be a documentary called Be Sound.   That was a five-  
9           part half-hour series, and it engaged school site  
10          council members, parents, and students, and it  
11          actually won an award, a national award.

12                Most recently we completed the Next  
13          Generation Project, not to be confused with CPB's Next  
14          Generation Project.   We completed the Next Generation  
15          Project with National Public Radio.   That was funded  
16          by RTNDA, Radio and Television News Association  
17          Directors.

18                And what we did was we -- we got a grant  
19          from RTNDA, and we selected five students from the  
20          high school that we reside in.   And NPR came out and  
21          they brought us five very seasoned journalists.   This  
22          went on throughout a week, and we trained -- we

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1 matched up a student with a journalist, and they went  
2 out into the field, they did field recording, they  
3 came back to the station.

4 Some of the staff at the station taught  
5 them some of the basic techniques of editing, and then  
6 they created a documentary called My Neighborhood:  
7 Visitation Valley, which we aired on KALW and I also  
8 distributed to the licensee.

9 Now, as to the other part of the question,  
10 I believe which is, what are the most favored programs  
11 that are local, speak to local issues, and are what I  
12 would say beloved, if I could assume to talk for the  
13 listeners. I can quickly talk about, starting on  
14 Sunday, Invisible Ink, which is a spoken word program,  
15 basically for young adults, pretty much done by  
16 somebody who is about 26 years old, and it's readings  
17 and a little like This American Life.

18 The Human Chorus is a half-hour  
19 documentary program about famous bits of music and  
20 what's the history behind that. Then we started  
21 Writer's Voice Radio, and that's a collaboration with  
22 a local independent bookstore and a nonprofit called

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1 Science Interchange. And that really -- we go out and  
2 we record readings by emerging authors, and then  
3 that's edited down to 20 minutes.

4 We then bring on other independent  
5 booksellers to talk about what's flying off their  
6 shelves. It's kind of a one on one. And then, we do  
7 a calendar of what are the readings at various  
8 independent booksellers throughout the Bay Area.

9 One of our daily shows that we've started  
10 -- and considering our budget is not that big, it's  
11 quite remarkable and very well loved, is a daily call-  
12 in show Monday through Friday called Your Call. And  
13 right now it's with Laura Flanders, and it used to be  
14 with Faraih Chadyah. That's the woman here.

15 And, actually, Faraih just got recruited  
16 by National Public Radio to be one of the hosts on  
17 News and Notes with Ed Gordon. And, actually, it was  
18 Dr. Ackerman who made me see that as a positive rather  
19 than a negative.

20 Philosophy Talk -- that's wildly popular.  
21 That's a collaboration we do with Stanford University,  
22 and this is the chair -- with the Chair Emeritus of

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1 the Philosophy Department at Stanford. Modeled a  
2 little bit like Call Talk where people call in and ask  
3 philosophical questions. There's usually a theme,  
4 some kind of ethical theme about ethics, and they  
5 bring on a guest, and then it's a call-in show as  
6 well.

7 And there is what they call the conundrum,  
8 which is they try to solve a conundrum that's pushed  
9 to them by listeners. They put it out one week, and  
10 then the next week they read the e-mails that come in  
11 and who actually solved the conundrum.

12 Ongoing -- I did not start it -- City  
13 Visions, and, of course, Your Legal Rights with Chuck  
14 Finney. He is the Assistant District Attorney for San  
15 Mateo County. And we -- Chuck does what he calls a  
16 call-in night for lawyers. And what you can do is off  
17 air you call a different number, and you can get free  
18 legal advice from a set of lawyers. And he's actually  
19 -- that used to happen just once a month, but now it's  
20 happening twice a month.

21 Also, one of the first programs I started  
22 was UpFront. That just won an award from American